IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1024 OF 1992

The State of Maharashtra ..Appellants

versus

Biru Sayappa Sagar & Ors. ..Respondents

Mr. S. N. Gawade, AGP for the Appellants.

None for the Respondents.

CORAM : D. G. DESHPANDE,J.

DATE : 20TH APRIL,2005

ORAL ORDER :

1. Heard learned AGP for the State which has filed this Appeal against the Order of the Reference Court dated 18.3.1991. The Respondents are served, nobody is present for the Respondents.

2. The land admeausring 2 H 28 Ares of the claimants was acquired. SLAO awarded Rs.30,507.20 as a total compensation. The claimants therefore filed Reference. Reference court enhanced the compensation to Rs.30,000/- per hectare.

3. The learned AGP contended that the sale deeds dated 4.11.1968 and 19.8.1982 were in respect

of Bagayat land; whereas one sale deed dated 1.6.1982 was in respect of Jirayat land, that sale deed even if accepted would enable the claimants to get Rs.16,600/- per hectare and not Rs.30,000/- per hectare.

4. From the judgment, it appears that no reasonings have been given by the Reference Court for awarding Rs.30,000/- per hectare as compensation. Relevant sale deed is of 1.6.1982 and the rate per hectare in that sale was Rs.16,600/- per hectare, therefore the claimants would be entitled to, as rightly argued by the learned AGP, for compensation of Rs.16,600/- per hectare.

5. However, from the judgment and evidence it appears that out of 2 H 28 Ares, part of land is Jirayat and Part of land is Bagayat. Particulars as to how much land was jirayat and how much bagayat, were not given. According to the claimants the land which remained with them after acquisition was Jirayat land. This is a general statement made by the claimants. Claimants have not specified as to how much land was Bagayat and how much land was Jirayat and there is no document to support this contention. Therefore, in the absence of any evidence in that regard, half of the acquired land can be considered as Bagayat and the remaining half

as Jirayat.

6. If as per the sale deed dated 1.6.1982, Rs.16,600/- was price of Jirayat land then compensation for Bagayat land can be determined at one half times and it would come to Rs.24,900/- per hectare. The claimants will be entitled to compensation on that rate in respect of the half of the acquired land and for the remaining half would be entitled to Rs.16,600/- per hectare as Jirayat land. Therefore, this appeal is to be partly allowed. Hence, order :

ORDER

. Appeal is partly allowed.

. Claimants - Respondents will be entitled to Rs.16,600/- per hectare as compensation for half of the acquired land, and at Rs.24,900/- for the remaining half of the acquired land. Statutory benefits shall be reduced in that proportion. No order as to costs.

20.04.2005 (D.G. DESHPANDE, J.)